

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Excello Plating Co., Inc.
4057 Goodwin Ave.
Los Angeles, CA 90039
CAD 009 545 153

and

Glen Harleman

Respondents.

Docket HWCA 2003-0175

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department), and Excello Plating Co., Inc. and Glen Harleman (Respondents) enter into this Consent Order and agree as follows:

1. Respondents generate, handle, treat, store and/or dispose of hazardous waste at the following site: 4057 Goodwin Avenue, Los Angeles, Ca. 90039 (Site).

2. The Department inspected the Site on August 21, 22, 23, and 26, 2002.

3. The Department alleges the following violations:

3.1. The Respondents violated Health and Safety Code section 25201, subdivision (a), in that on or about August 21, 2002, Respondents treated waste cyanide solutions, a hazardous waste, without a permit or other grant of authorization from the Department.

3.2. The Respondents violated Health and Safety Code section 25201, subdivision (a), in that on or about August 21,

2002, Respondents stored waste chromic acid, a hazardous waste, in a 1000-gallon tank for one year, and waste from Respondents' chrome anodize process, a hazardous waste, in a 250-gallon tank for 10 months, without a permit or other grant of authorization from the Department.

3.3. Respondents violated California Code of Regulations, title 22, section 66262.34, subdivision (a)(1)(A), and section 66265.196, in that on or about August 21, 2002, Respondents failed to remove from service a tank that was not in good condition and leaking. The tank was storing waste chromic acid, a hazardous waste.

3.4. Respondents violated Health and Safety Code section 25189.2, subdivision (c), in that on or about August 21, 2002, Respondents disposed of hazardous waste at an unauthorized point. Used beads contaminated with chromium VI, and brass polishing wastes contaminated with copper, nickel, zinc, and lead, were disposed of in the municipal trash bin. Additionally, spent perchloroethylene was disposed of into the floor sump. Contents from the sump were disposed to the Publicly Owned Treatment Works (POTW), a point not authorized for hazardous waste disposal.

3.5. Respondents violated California Code of Regulations, title 22, section 66262.11, in that on or about August 21, 2002, Respondents failed to properly determine if its wastes were hazardous wastes. Respondents failed to properly determine if used beads and polishing waste were hazardous wastes.

3.6. Respondents violated California Code of Regulations, title 22, section 66262.23, in that on or about August 21, 2002, Respondents failed to use a manifest for hazardous wastes (brass polishing waste and used glass beads) transported off-site.

3.7. Respondents violated Health and Safety Code, section 25163, in that the Respondents transferred custody of a hazardous waste to a transporter (municipal trash company) that does not hold a valid registration issued by the Department.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondents waive any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondents admit the violations described above.

SCHEDULE FOR COMPLIANCE

10. Respondents shall comply with the following:

10.1.1. Effective immediately, Respondents shall cease treating hazardous waste, including waste cyanide solutions, without a permit or other grant of authorization from the Department.

10.1.2. Effective immediately, Respondents shall not store hazardous waste in excess of the 90 days allowed for the generators without a permit or other grant of authorization from the Department.

10.1.3. Effective immediately, if Respondents store hazardous wastes in tanks, Respondents shall only store them in tanks that are in good condition and fit for use.

10.1.4. Effective immediately, Respondents shall cease disposing of hazardous waste at a point not authorized by the Department. Respondents shall manage contaminated used beads and contaminated brass polishing waste as hazardous wastes and ship off-site to an authorized facility.

10.1.5. Effective immediately, Respondents shall use a manifest when transporting hazardous waste off-site.

10.1.6. Effective immediately, Respondents shall use a manifest for hazardous waste to be transported off-site.

10.2. Submittals: All submittals from Respondents pursuant to this Consent Order shall be sent simultaneously to:

Robert Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

and

Debra Schwartz, Staff Counsel
Office of Legal Counsel and Investigations
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

and

Thomas G. Heller, Deputy Attorney General

California Department of Justice
Office of the Attorney General
300 Spring Street, Room 1702
Los Angeles, California 90013

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondents in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondents shall be construed to relieve Respondents of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondents shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to

the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondents to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondents, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondents in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondents shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling

and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability:

Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Consent Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of

California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by

Respondents or their agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondents pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondents are unable to perform any activity or submit any document within the time required under this Consent Order, the Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Within 60 days of the effective date of this Consent Order, Respondents shall pay the Department a total of \$60,000 as a penalty, as follows: \$30,000 within 30 days of the effective date, and the balance with 60 days of the effective date. Respondents' checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the checks shall be sent to:

Robert Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

and

Debra Schwartz, Staff Counsel
Office of Legal Counsel and Investigations
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

and

Thomas G. Heller, Deputy Attorney General
California Department of Justice
Office of the Attorney General
300 Spring Street, Room 1702
Los Angeles, California 90013

If Respondents fail to make payment as provided above, Respondents agree to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondents to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondents and their officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

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12.6. Compliance with Waste Discharge Requirements:

Respondents shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: 07/26/04

Original signed by Glen Harleman

Printed name: Original Signed by Glen Harleman

Representative for Excello Plating Co.,
Inc.
Respondent

Dated: 07/26/04

Original Signed by Glen Harleman

Glen Harleman
Respondent

Dated: 08/05/04

Original Signed by Florence Gharibian

Florence Gharibian, Branch Chief
Southern California Branch
Statewide Compliance Division
Department of Toxic Substances Control